



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOE DALE REED
704 West 11th Street
Brady TX 76825

COPY MAILED

FEB 16 2005

In re Application of
Joe Dale Reed
Application No. 10/072,178
Filed: June 24, 2002
Attorney Docket No. REED0908

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed November 19, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on August 12, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A Notice of Appeal and a one (1) month extension of time was requested. However, the fee required for the Notice of Appeal fees was not submitted. Accordingly, this application became abandoned on December 13, 2003. A Notice of Abandonment was mailed on July 26, 2004.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby Granted.

An untimely request for a three month extension of time was filed on November 19, 2004. However, pursuant to 37 CFR §1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Petitioner's six (6) month statutory period expired on February 12, 2004. Petitioner is ineligible for any extensions of time. Accordingly, the \$490.00 will be refunded to deposit account 19-0513.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the

delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 3700 for further processing of the Request for Continued Examination (RCE) and the amendment submitted with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: David E. Allred
Schmeiser, Olsen & Watts LLP
18 E. University DR. # 101
Mesa, AZ 85201